

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

LAURACK D. BRAY,
Plaintiff,

vs.

DEPARTMENT OF JUSTICE, et al.,
Defendants.

} Case No.: CV 12-05704-CJC(RZx)

} ORDER DENYING PLAINTIFF'S EX
PARTER APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER; ORDER TO PLAINTIFF TO
SHOW CAUSE WHY THIS CASE
SHOULD NOT BE DISMISSED FOR
FAILURE TO STATE A
COGNIZABLE CLAIM

I. INTRODUCTION

Simultaneously with the filing of his Complaint, Plaintiff Laurack D. Bray moves *ex parte* for the issuance of a temporary restraining order and for an order to show cause why a preliminary injunction should not be granted. Mr. Bray's application seeks, *inter alia*, the repossession of property located at 1019 E. Santa Clara St., Ventura, California

1 (the “Subject Property”). (Dkt. No. 3.) For the reasons discussed below, Mr. Bray’s *ex*
2 *parte* application is DENIED.

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4 **II. BACKGROUND**

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6 On July 3, 2012, Mr. Bray¹ brought suit against twenty-one federal and state
7 defendants, including the United States of America, the Department of Justice, Attorney
8 General Eric Holder, and the United States Attorney for the Central District of California,
9 André Birotte. (*See* Dkt. No. 5 [Complaint].) Mr. Bray’s Complaint alleges that he has
10 been the victim of racial discrimination during judicial proceedings, and suffered similar
11 discrimination during his attempts to see his claims investigated. (Compl. ¶¶ 1–3.) In
12 particular, Mr. Bray alleges that during a 2003 unlawful detainer action filed against him,
13 the Ventura County Superior Court judge presiding over his trial answered a jury
14 question in way that caused a jury verdict against him. (*Id.* ¶ 6.) As a result of this
15 verdict, Mr. Bray alleges that he was wrongfully evicted from his home-law office. (*Id.*)
16 Subsequently, Mr. Bray requested that the Federal Bureau of Investigation and the United
17 States Attorney’s Office for the Central District of California (“USAO”) investigate and
18 prosecute his claims of racial discrimination. (*Id.* ¶ 8.) The USAO declined to proceed
19 with a case based on Mr. Bray’s claims, and informed him that it “does not conduct
20 investigations.” (*Id.* Exh 1–1A) (emphasis in original.)

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22 Based on these allegations, Mr. Bray asserts eight causes of action for violation of
23 42 U.S.C. §§ 1981, 1982, and 1985, the Fifth Amendment, the Fourth Amendment, the
24 Foreign Intelligence Surveillance Act, the Privacy Act, the Federal Tort Claims Act, and
25 the Fourteenth Amendment. (*See* Compl.) On July 2, 2012, Mr. Bray filed the instant *ex*

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28 ¹ While Mr. Bray’s Complaint is captioned “Laurack D. Bray, and on behalf of Conrad Murray and
Oscar Grant, deceased, and other similarly-situated black male professionals/semi-professionals”, the
Complaint does not contain any class allegations.

1 *parte* application. Mr. Bray's application seeks an order (1) restraining the Defendants
2 from selling, leasing, renting, passing, or transferring the Subject Property, (2)
3 dispossessing anyone currently possessing the Subject Property, (3) permitting Mr. Bray
4 to take immediate control of the Subject Property, (4) requiring Defendants to continue to
5 maintain the Subject Property pending a final decision in this action, and (5) requiring
6 Defendants to show cause why the Court should not issue a preliminary injunction. (Pl.'s
7 App. at 1–2.)

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9 **II. ANALYSIS**

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11 The standard for issuing a TRO is “substantially identical” to that for issuing a
12 preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832,
13 839 n.7 (9th Cir. 2001). “ ‘A plaintiff seeking a [TRO] must establish that he is likely to
14 succeed on the merits, that he is likely to suffer irreparable harm in the absence of
15 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in
16 the public interest.’ ” *Am. Trucking Ass’ns, Inc. v. City of L.A.*, 559 F.3d 1046, 1052 (9th
17 Cir. 2009) (quoting *Winter v. Nat'l Res. Def. Council, Inc.*, 129 S.Ct. 365, 374 (2008)).
18 Like a preliminary injunction, a TRO is an extraordinary and drastic remedy that may
19 only be awarded upon a clear showing that the moving party is entitled to relief. *See*
20 *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997).

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22 Mr. Bray has not made a clear showing that he is entitled to the extraordinary
23 remedies he seeks because his *ex parte* application and exhibits fall far short of
24 demonstrating a likelihood of success on the merits. Mr. Bray's Complaint fails to meet
25 the basic pleading requirements of Federal Rule of Civil Procedure 8(a) to provide a short
26 and plain statement of the claim showing that the pleader is entitled to relief. Mr. Bray's
27 thirty-four page Complaint, with eight claims, against twenty-one different defendants, is
28 replete with allegations of racial discrimination, and other alleged constitutional

1 violations. But rather than being a short and plain statement of Mr. Bray's alleged injury,
2 the Complaint is a "shotgun pleading" that primarily contains legal conclusions. With so
3 many claims, leveled against so many defendants, Mr. Bray's Complaint makes it
4 exceedingly difficult for the Court to determine the merit of his allegations. And Mr.
5 Bray's *ex parte* application fails to provide any clarity. With such conclusory, confusing,
6 and redundant allegations, the Court cannot conclude that Mr. Bray has demonstrated a
7 likelihood of success on the merits of any of his claims.

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9 Mr. Bray has also failed to demonstrate that he will suffer irreparable harm if the
10 requested relief is not granted. Plaintiff alleges that after his eviction from the Subject
11 Property in 2003, he has been unable to obtain another home or office. (*See* Pl.'s App. at
12 6.) Indeed, Mr. Bray states that the "main reason for the temporary restraining order is to
13 assist Plaintiff in re-gaining possession or re-possessing the premises located at 1019 E.
14 Santa Clara Street, Ventura, CA . . ." (*Id.*) But Mr. Bray has not suggested any basis on
15 which the successful resolution of his claims would entitle him to the possession of
16 property he last rented in 2003.² Moreover, Mr. Bray has not alleged how he will be
17 irreparably harmed by not immediately regaining possession of a property he rented as
18 far back as 2003. Without more, Mr. Bray has failed to demonstrate the irreparable harm
19 necessary for the relief he seeks.

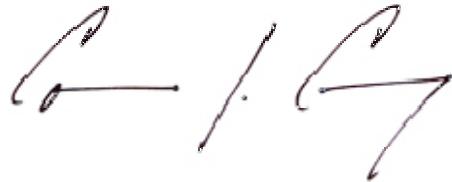
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21 **III. CONCLUSION**

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23 For the foregoing reasons, Mr. Bray's *ex parte* application is DENIED. In light of
24 the deficiencies in his Complaint, the Court ORDERS Mr. Bray to show cause why this

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27 ² Mr. Bray has also not alleged how the Defendants are in a position to return the Subject Property to
28 him. While Mr. Bray does allege that the Subject Property is currently under the stewardship of a
trustee, he does not allege that Defendants are the trustee or are somehow in an ownership position over
the Subject Property. (*See* Pl.'s App. 7–8.) In fact, Mr. Bray alleges that he does "not know the state of
the ownership of the property, other than a trustee, according to the assessor's office." (*Id.* at 8.)

1 action should not be dismissed for failure to state a cognizable claim. Mr. Bray must file
2 a written opposition to this order to show cause by August 28, 2012. Defendants shall
3 file a response, if any, by September 4, 2012. The matter will stand submitted upon
4 receipt of all the papers.

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6 DATED: August 14, 2012
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8 CORMAC J. CARNEY
9 UNITED STATES DISTRICT JUDGE
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